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Programme planning

Report of the Third Committee

Rapporteur: Ms. Elena **Molaroni** (San Marino)

I. Introduction

1. At its 2nd plenary meeting, on 13 September 2006, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-first session the item entitled "Programme planning" and to allocate programme 19, Human rights, of the proposed strategic framework for the period 2008-2009, as well as the revised estimates relating to the 2005 World Summit Outcome (programme narratives of the programme budget for the biennium 2006-2007 under section 23, Human rights), to the Third Committee for its review and action.

2. The Committee considered the item at its 43rd and 55th meetings, on 9 November and 8 December 2006 (see A/C.3/61/SR.43 and 55). For its consideration, the Committee had before it the following documents:

(a) Proposed strategic framework for the period 2008-2009;[1]

(b) Report of the Committee for Programme and Coordination;[2]

(c) Letter dated 12 October 2006 from the President of the General Assembly to the Chairman of the Third Committee (A/C.3/61/3).

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 6* (A/61/6, Prog. 19).
[2] Ibid., *Supplement No. 16* (A/61/16), chap. II.

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II. Consideration of draft decision A/C.3/61/L.62

3. At its 55th meeting, on 8 December, the Committee had before it an informal paper containing a draft decision (subsequently issued in document A/C.3/61/L.62), submitted by the Chairman on the basis of informal consultations held under the item.

4. At the same meeting, the Rapporteur of the Committee read out corrections to the text of programme 19, which was annexed to the draft decision.

5. At the same meeting, the Committee adopted the draft decision, and recommended it, together with the text of programme 19, as amended and corrected, to the General Assembly for approval (see para. 6 below).

III. Recommendation of the Third Committee

6. The Third Committee recommends to the General Assembly the adoption of the following draft decision:

Programme planning

The General Assembly, having considered programme 19, Human rights, of the proposed strategic framework for the period 2008-2009,[1] and the relevant chapter of the report of the Committee for Programme and Coordination on its forty-sixth session,[2] decides to approve programme 19, Human rights, of the proposed strategic framework for the period 2008-2009, subject to the provisions of the present decision and to the additional modifications indicated in the annex hereto.

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 6* (A/61/6, Prog. 19).

[2] Ibid., *Supplement No. 16* (A/61/16), chap. II.

Annex

Proposed strategic framework for the period 2008-2009

Part two: biennial programme plan
Programme 19
Human rights

Contents

	Page
Overall orientation	5
Subprogramme 1. Human rights mainstreaming, right to development, research and analysis	6
Subprogramme 2. Supporting human rights bodies and organs	12
Subprogramme 3. Advisory services, technical cooperation and field activities	14
Subprogramme 4. Support for human rights thematic fact-finding procedures	16
Legislative mandates	18

Overall orientation

19.1 The overarching purpose of the United Nations human rights programme is ~~the~~ **universal to promote and protect the effective** enjoyment **by all** of **all** human rights ~~by all~~. The 2005 World Summit acknowledged peace and security, development and human rights as interlinked and mutually reinforcing pillars of the United Nations system, providing foundations for collective security and well-being. The United Nations human rights programme has **a role in making** ~~the vital responsibility for contributing to conflict prevention and resolution, as well as for helping to make~~ development equitable, sustainable and responsive to the needs of people **and in relation to conflict prevention and resolution** ~~through the application of the rights-based approach methodology~~. In order to promote and encourage respect for human rights, the programme undertakes to give practical effect to the will and resolve of the world community, as expressed through the United Nations and **it shall continue to be guided by the principles of universality, objectivity, impartiality, and non-selectivity.** Its mandate derives from Articles 1, 13, 55 and 62 of the Charter of the United Nations; the Vienna Declaration and Programme of Action **including its principles and recommendations**, adopted by the World Conference on Human Rights and subsequently endorsed by the General Assembly in its resolution 48/121; Assembly resolution 48/141 establishing the United Nations High Commissioner for Human Rights; international human rights instruments adopted by the United Nations; the outcomes of relevant United Nations conferences and summits; and the resolutions and decisions of policymaking bodies, including, in particular, Assembly resolutions 55/2 on the United Nations Millennium Declaration, **57/300 entitled "Strengthening of the United Nations: an agenda for further change"** and 60/1 on the 2005 World Summit Outcome.

19.2 The programme falls under the leadership of the High Commissioner for Human Rights, entrusted with the principal responsibility for the human rights activities of the Organization, under the direction and authority of the Secretary-General. The Office of the United Nations High Commissioner for Human Rights (OHCHR) acts as the central supportive structure for the programme. By 2008, the Office will complete**, as appropriate,** the first phase of its reform in the follow-up to the 2005 World Summit, which took note of the High Commission's plan of action.

19.3 The programme ~~will strive to fill the gaps in the implementation of international human rights standards. It~~ will ~~endeavour to~~ work ~~with all relevant parties~~ to remove obstacles to the full realization of all human rights and to prevent **the continuation of** human rights violations**, including with relevant parties.** ~~from occurring or continuing throughout the world. The country~~ **Continued** engagement **of the Office with countries is essential to** ~~strategy of the Office allow for~~ the realization of the programme in the framework of the enhanced partnerships at the national, regional and international levels. It will draw on the values of the Millennium Declaration and the 2005 World Summit Outcome document, which call for the promotion of democracy, the strengthening of the rule of law and respect for all internationally recognized human rights and fundamental freedoms, including the right to development. Priority will continue to be given to emphasizing the importance of human rights on international and national agendas, combating

poverty and countering discrimination on all internationally recognized grounds, including race, sex, language or religion, advancing the rights of children and women, raising awareness of human rights at all levels of education, responding to the needs of the vulnerable for protection and addressing situations of international concern, **particularly gross and systematic violations of human rights**, as identified by the Human Rights Council and other relevant United Nations organs.

19.4 Increased support for human rights implementation will be provided to Member States, at their request, through, inter alia, assistance to national systems of human rights protection, **national capacity-building, technical cooperation,** human rights education and other activities ~~to protect rights holders~~. All human rights activities will be addressed in an integrated, interrelated and interdependent manner. The programme will continue to take gender issues fully into account in the development and application of norms and procedures so that violations against women and girls are clearly identified and addressed. Substantive and organizational support will be provided to the Human Rights Council, ~~and~~ its procedures, other relevant United Nations organs and treaty-monitoring bodies. Particular efforts will be made to strengthen, rationalize and streamline the United Nations mechanisms in the field of human rights, as requested by the General Assembly in its resolutions 48/141 and 60/1. The programme will strive to meet the essential challenge of ensuring the enjoyment of human rights worldwide, through the dedicated and coordinated efforts of all relevant partners, ~~focusing on the empowerment and protection of people~~.

19.5 The programme strategy will be guided by the lessons learned from the 2006-2007 biennium, in particular with regard to measurements of achievement that can be implemented realistically by OHCHR ~~and its partners~~.

Subprogramme 1
Human rights mainstreaming, right to development, research and analysis

19.6 The responsibility for implementing the subprogramme lies with the Research and Right to Development Branch of the Operations, Programmes and Research Division.

A. Human rights mainstreaming

Objective of the Organization: to advance **the promotion and protection of human rights and to** further **integrate** ~~on~~ of human rights and their gender dimension **into all relevant areas of work of the United Nations system** ~~into development, humanitarian, peace and security, governance, and rule of law programmes and activities of the United Nations, in particular at the country level~~.

Expected accomplishments of the Secretariat	Indicators of achievement
(a) **Integration incorporation** of all human rights aspects into development, humanitarian, peace and security, governance and rule of law programmes and activities of United Nations system ~~agencies, departments and bodies and United Nations country teams~~	(a) Increased number of United Nations **projects and activities** ~~common country programming documents~~ that **further** integrate a human rights ~~perspective~~
~~(b) Strengthened capacity of the United Nations human rights programme to assist Member States, at their request, in building and strengthening national systems for human rights protection~~	~~(b) Increased number of human rights guidance and methodological tools for development, humanitarian, peace and security, governance and rule of law activities developed under United Nations frameworks, aimed at strengthening the capacity of United Nations country teams, integrated missions, departments and bodies~~
(b) Strengthened capacity of United Nations system, in particular United Nations country teams, to further integrate human rights into their respective programmes and activities, and to assist Member States, at their request, in building and strengthening national human rights promotion and protection capacities	**(b) Increased number of United Nations projects, activities and common country programming documents that further integrate human rights**
(c) Wider knowledge within the entire United Nations system, including United Nations country teams, of relevant human rights issues and their gender dimension	(c) Increased number of Resident and Humanitarian Coordinators, Special Representatives of the Secretary-General, other senior officials and country teams trained and advised by OHCHR

Strategy

19.7 This part of the subprogramme will play a leadership role in pursuing **cooperation within the** United Nations system ~~wide partnership~~ for the integration of all human rights into **its** development, humanitarian, peace and security, governance and rule of law programmes and activities, **bearing in mind the existing mandates in these areas,** ~~within the United Nations system~~ in order to contribute to ~~closing gaps in~~ the **full and effective** implementation of international human rights standards **by States**. The strategy will focus on:

~~(a) Enhancing system-wide, coordinated efforts and coherent policies for the promotion and protection of human rights at the country level by placing human rights at the heart of United Nations programmes and activities in the development, humanitarian, peace and security, governance and rule of law areas;~~

(a) Integrating a human rights perspective into United Nations programmes and activities in the development, humanitarian, peace and security, governance and rule of law areas, thus contributing to the promotion and protection of human rights at all levels;

(b) Strengthening the substantive engagement and partnership, **at the international level,** of OHCHR with the World Bank, the United Nations Development Programme, other United Nations agencies, **bearing in mind their respective mandates,** and civil society, promoting the practical integration of human rights into development programmes, as well as ensuring consistency and mutual reinforcement between United Nations-supported development activities and OHCHR country engagement strategies;

(c) Developing methodologies to facilitate the ~~incorporation~~ **inclusion** of all human rights in United Nations policies, programmes and activities for development, peace and security, rule of law, governance and humanitarian assistance, **and to facilitate, where appropriate, ~~including by the~~** advance**ment of** the practical applications of rights-based approaches to all the aforementioned areas;

(d) Contributing to developing the capability of the United Nations system, in particular the United Nations country teams, through training, advice and methodological tools to assist Member States, at their request, in building and enhancing national capacities to promote and protect human rights and in mainstreaming human rights into national policies.

B. Right to development

Objective of the Organization: to advance the promotion and protection of the right to development

Expected accomplishments of the Secretariat	Indicators of achievement
(a) Further integration ~~and/or inclusion~~ of the promotion and protection of the right to development in global partnerships for development **and, as appropriate, into the policies and operational activities of relevant actors at all levels**	(a) Increased number of partnerships agreed to and applying specific criteria for the assessment of global development partnerships from the perspective of the right to development
(b) Enhanced awareness, knowledge and understanding of the right to development at **all** ~~the international, regional and country~~ levels	(b) Increased number of **activities,** analytical papers and information materials, **organized** ~~or relevant to the right to development~~ made available by OHCHR ~~to its partners~~ within and outside the United Nations **in contribution to increasing knowledge, awareness and understanding of the realization of the right to development**

Strategy

19.8 This part of the subprogramme will pursue a multidimensional strategy **to support** ~~for~~ the implementation of the right to development **in accordance with the Declaration on the Right to Development and subsequent mandates and the Vienna Declaration and Programme of Action**. The Strategy will focus ~~ing~~ on:

(a ~~supra~~**) Ensuring the realization of the right to development across the human rights programme and by the relevant bodies of the United Nations system;**

(a) **(b)** **Enhancing** ~~Providing~~ substantive support to the Human Rights Council and its subsidiary mechanisms **related to** ~~on the implementation of~~ the right to development;

(b) **(c)** Building stronger partnership and collaboration with relevant actors, including Member States, multilateral institutions and civil society, so that support given to human rights bodies relevant to the right to development will have increased focus on its practical implementation;

(c) **(d)** Encouraging the promotion and protection of the right to development in global development partnerships, as reflected in Millennium Development Goal 8 (aid, trade and debt reduction), through advocacy, networking, technical advice and the establishment of partnersl ps and other kinds of cooperation;

(d) **(e)** Promoting the implementation of the right to development in **technical assistance to requesting countries and, taking into account a human rights-based approach, in** national development strategies, such as, ~~inter alia~~, poverty reduction strategy papers, **where they exist,** national Millennium Development Goals strategies and United Nations development frameworks, through close cooperation with Member States and United Nations agencies, funds and programmes;

(e) **(f)** Identifying obstacles at the national, regional and international levels to the implementation of the right to development and promoting awareness about the content and importance of the right to development, including through increased engagement ~~at the country level~~, research, advocacy and informational and educational activities;

(g) Promoting cooperation at the regional and international levels and continuing to support to the Working Group and High-Level Task Force on the Right to Development on the application of the criteria for the assessment of global development partnerships from the perspective of the right to development.

C. Research and analysis

Objective of the Organization: to contribute to **removing obstacles to** ~~closing gaps in~~ the implementation of international human rights standards based on an analysis of human rights problems and challenges and through the development and application of expertise on human rights themes and methodologies, **by increasing knowledge, awareness and understanding of human rights issues through research and analysis**

Expected accomplishments of the Secretariat	Indicators of achievement
(a) ~~Enhanced effectiveness of the United Nations efforts to~~ **Strengthened respect for the enjoyment of all human rights and fundamental freedoms by everyone, inter alia, by combating** ~~counter the disadvantaged situation or exposure to~~ discrimination **against** of groups **including but not limited to** such as women, children, persons belonging to minorities, indigenous peoples, persons with disabilities, **persons affected by HIV/AIDS,** migrants, **and** victims of **trafficking and victims of involuntary disappearances** ~~racism, racial discrimination, xenophobia and related intolerance~~	(a) Increased number of activities and measures taken to promote and protect the enjoyment of human rights by members of those groups
(b) Strengthened efforts that contribute to the elimination of racism, racial discrimination, xenophobia and related intolerance	**(b) Increased number of measures taken to eliminate racism, racial discrimination, xenophobia and related intolerance**
~~(b)~~ **(c) Enhanced OHC HR's contribution to the** ~~More~~ effective implementation of the Millennium Development Goals, ~~in particular with regard to poverty reduction and combating HIV/AIDS~~	(b) **(c)** Increased number of activities and measures undertaken ~~in promoting and developing rights-sensitive poverty reduction strategies~~ **in contribution to the effective implementation** of the Millennium Development Goals
~~(c)~~ **(d)** Enhanced legal protection and advocacy for the implementation of **all human rights including** economic, social and cultural rights **including** at the ~~regional and~~ country levels	~~(c)~~ **(d) Increased number of activities and measures undertaken in** strengthening legal protection and advocacy in implementing **all human rights, including** economic, social and cultural rights
~~(d)~~ **(e)** More effective United Nations assistance to Member States and other stakeholders, at their request, in strengthening the rule of law and democracy mechanisms for the protection of all human rights ~~and in implementing the relevant instruments elaborated by the United Nations legislative bodies~~	~~(d)~~ **(e)** Increased number of **activities and policies,** measures **undertaken in strengthening the rule of law and democracy mechanisms for the protection of all human rights** ~~and tools developed by OHCHR and other United Nations partners to assist all actors, including Governments and civil society, in strengthening and building democratic institutions, law enforcement and correction measures, accountability~~

	~~mechanisms, the administration of justice, combating impunity, enhancing rights-based approaches to counter-terrorism and trafficking, law enforcement and correction measures, and rights-based approaches to transitional justice for conflict and post-conflict States~~
~~(e)~~ **(f)** Enhanced methodological expertise to implement human rights activities ~~in support of country engagement, leadership and partnership strategies~~ **and to provide advice and assistance to Governments and partners within and outside the United Nations system**	~~(e)~~ **(f)** Increased number of methodological and operational guidelines and tools **developed and training materials developed, including** ~~indicators for~~ **the realization of** human rights ~~assessment~~
(f) **(g)** Enhanced capacity of OHCHR to provide training and advice to promot**ing** human rights compliance and **with a view** to protect**ing** rights-holders at the national level	(f) **(g)** Increased number of advice and training activities provided by OHCHR and its partners, **as appropriate,** in relevant substantive area

Strategy

19.9 This part of the subprogramme strategy will be based on the consolidation, further development and strengthening of substantive human rights expertise to support effective engagement with countries and global and national-level partnerships and to **lead efforts within the United Nations system** ~~provide leadership~~ to meet current human rights challenges. Strengthened expertise will be **used** ~~brought to bear~~ to overcome human rights implementation gaps and will provide the basis for OHCHR to work on technical cooperation, advocacy, training, policy development, analysis, protection and advice to partners **at all levels**. The strategy will focus on:

(a) Advocacy for the indivisibility, interdependence and interrelatedness of all human rights by enhancing substantive and methodological expertise; development **and consolidation** of partnerships within and outside the United Nations **for strengthening national capacities** ~~for capacity-building~~ in the areas of the rule of law, democracy and good governance; a human rights approach**es to development, counterterrorism,** to anti-trafficking measures as well as to the implementation of the Millennium Development Goals, ~~including poverty reduction and combating HIV/AIDS~~; **contributing to the elimination of racism, racial discrimination, xenophobia and new forms of discrimination; strengthening respect for the enjoyment of all human rights and fundamental freedoms by everyone, inter alia, combating** ~~and countering the disadvantaged situation or exposure to~~ discrimination **against** ~~of~~ groups **including but not limited to** ~~such as~~ women, children, persons belonging to minorities, indigenous people, persons with disabilities, **persons affected by HIV/AIDS,** and migrants **and victims of trafficking and victims of involuntary disappearances**;

(b) Advancing knowledge, awareness, understanding and implementation of all human rights, including through research, policy-oriented analysis, support to standard-setting ~~and clarification~~, capacity-building, ~~protection~~, advocacy, **best practices and** development of methodologies ~~and best practices~~ in the areas of

human rights protection, institution-building and education, development and delivery of human rights training activities, including within the framework of the World Programme for Human Rights Education, provision of specialized human rights reference services and improved knowledge management;

(c) ~~Effective implementation of the Durban Declaration and Programme of Action, including~~ Wider inclusion in advisory services and training provided to countries, upon their request, of measures to be taken to combat racism, racial discrimination, xenophobia and related intolerance, **including through effective implementation of all relevant international instruments and standards**, and enhancement of research and analysis in this area.

Subprogramme 2
Supporting human rights bodies and organs

Objective of the Organization: to further the enjoyment and protection of human rights **by providing substantive support and advice to the Human Rights Council and other United Nations human rights bodies and organs, as well as by** increas**ing** the knowledge and awareness of the international human rights machinery among national and international actors ~~and rationalize, streamline and provide substantive support and advice to existing human rights mechanisms and procedures, including the Human Rights Council~~

Expected accomplishments of the Secretariat	Indicators of achievement
(a) Timely delivery of required substantive and technical support to intergovernmental bodies, in particular to the Human Rights Council and its subsidiary and expert mechanisms, ~~in developing and implementing the methodology to carry out their functions~~	(a) (i) Increased **timely** availability of documents and prompt provision of substantive and technical support to the intergovernmental machinery and its subsidiary mechanisms, **in compliance with relevant rules and regulations for issuance of documentation,** through the use of new information technology facilities and tools (ii) **Increased number of positive feedback received from** ~~Satisfaction expressed by~~ Member States as a result of the substantive advice provided by the Secretariat to the organs concerned
(b) Timely delivery of required substantive support to States parties related to their participation in more streamlined and harmonized **reporting** procedures before treaty bodies, ~~in particular with respect to reporting through the common core document and targeted treaty-specific reports~~	(b) Increased number of **instances in which treaty bodies considered** States parties' ~~submitting streamlined~~ reports **based on the streamlined and harmonized reporting procedure** ~~on the basis of the harmonized reporting guidelines~~

(c) Enhanced **awareness, knowledge and understanding** ~~dissemination~~ of treaty body outputs among national and international actors, **including through new and effective methods of dissemination, such as better use of the Internet**	(c) Increased number of national and **international actors at all levels** ~~regional courts citing~~ **making use of** treaty body recommendations and decisions **with the support of OHCHR**
(d) Timely delivery of required substantive **and other** support to treaty bodies in **order to ensure that** ~~preparation of their concluding observations and~~ recommendations emanating from the review of State parties reports **are implementable, including as a result of country visits and consideration of individual complaints, where required by treaty bodies** ~~, as well as from country visits and consideration of individual complaints~~	(d) ~~(i)~~ Increased number of **activities and measures undertaken to strengthen treaty body** ~~implementable~~ recommendations **and decisions** ~~(ii) Continuous introduction of refined methods of work allowing for a larger number of individual complaints to be concluded at each session of the treaty bodies concerned~~ ~~(iii) Increased number of complaints adopted by treaty bodies~~
(e) Enhanced cooperation with stakeholders **at all levels** who can benefit from and/or contribute to the work of treaty bodies, including ~~provision of assistance to legislative reform in the area of human rights at the national level~~ **in follow-up to treaty body recommendations**	(e) ~~(i)~~ Increased number **of activities and measures undertaken in cooperation with stakeholders at all levels, including in follow-up to treaty body recommendations** ~~of civil society actors, including national human rights institutions, non-governmental organizations and media, participating in treaty body sessions and activities relating to the treaty body system~~ ~~(ii) Higher level of cooperation with requesting countries in the development of laws and policy documents for adoption or revision by them~~

Strategy

19.10 The subprogramme is under the responsibility of the Treaties and **Council** Branch of the Human Rights Procedures Division. The strategy will include:

(a) Drawing on all available in-house resources and expertise to provide **adequate** substantive and technical support, including the analytical capacity, for the review of State reports, on the conduct of country visits by human rights treaty bodies, **where provided for in the treaty or upon request of States, and** processing of individual complaints~~, and~~;

(b) Enhancing the effective functioning of human rights bodies and organs, including the Human Rights Council, through coordinated support for the improvement, rationalization and streamlining of **human rights** ~~existing~~ procedures, as well as ~~systematic~~ engagement with Governments, experts, special procedures

mandate holders, specialized agencies, other international organizations, national institutions and non-governmental organizations to that end;

(c) **Assist human rights bodies in their efforts to make their** ~~Formulating concrete proposals designed to render the~~ deliberations and decision-making **processes by human rights bodies in relation to individual complaints procedures** more effective;

(d) Strengthening the capacity and role of the OHCHR Documents Processing Unit, acting in close cooperation with the United Nations Office at Geneva, with a view to more effective coordination and streamlining of ~~all of~~ OHCHR documentation; ~~as well as seeking to rationalize such documentation, including through initiatives to reduce its volume~~;

(e) Enhancing and coordinating in-house efforts more effectively and expanding partnerships with United Nations agencies, non-governmental organizations, national human rights institutions and the media to promote awareness and knowledge of all international human rights treaties **and the work of all treaty bodies** in order to **support** ~~assist in closing gaps in~~ **the effective** implementation **of** international human rights standards and compliance with treaty commitments by States parties;

(f) Promoting ratification of the ~~principal~~ human rights conventions and protocols.

Subprogramme 3
Advisory services, technical cooperation and field activities

Objective of the Organization: to cooperate with countries in efforts to strengthen the implementation of international human rights standards at the national level, **including through assistance to requesting States, support to national plans and capacity-building for human rights promotion and protection**

Expected accomplishments of the Secretariat	Indicators of achievement
(a) Enhanced **capacity of the United Nations to** assistance ~~provided~~ **States,** at **their** request, **in their effort to translate their international human rights obligations into effective laws, regulations and policies** ~~of countries to support legislative reforms at the national level to remove obstacles to the full realization of human rights~~	(a) Increased ~~number of~~ **positive feedback from** ~~laws and policy documents adopted or revised by~~ Member States ~~to ensure compliance with international human rights standards~~ **who benefited from OHCHR's assistance in the area of legislative reforms**
(b) Enhanced institutional capacity development at the national level **through engagement with requesting States,** to meet the challenges to the full realization of human rights	(b) Increased number of ~~human rights~~ institutions established **or strengthened in the field of human rights** at the national level **through assistance and training provided by OHCHR**

(c) Enhanced **support of OHCHR to** human rights education and awareness-raising, **including** at the national level	(c) Increased number of institutionalized human rights training and education programmes **for all relevant actors introduced at the national, subregional and regional levels, with the support of the United Nations human rights programme** ~~in the formal education system and for core professional groups (law enforcement officials, prison officials, judges and lawyers)~~
(d) Enhanced capacity of United Nations country teams and United Nations peace missions to assist **requesting** countries, ~~at their request,~~ in **their effort to** ~~the~~ develop ~~ment of~~ national human rights protection systems	(d) Increased number of programmes implemented by United Nations country teams and human rights components of United Nations peace missions in support of national human rights protection systems, **in cooperation with requesting countries**
(e) Enhanced **OHCHR** capacity ~~of the United Nations~~ to contribute to the prevention **of the continuation or halting** of ~~large-scale~~ human rights violations ~~at the national level~~ **in accordance with the mandate of the High Commissioner for Human Rights**	(e) Increased number of cases when OHCHR assisted in resolving identified situations of **large-scale** human rights **violations** ~~crises~~ at short notice

Strategy

19.11 The subprogramme is under the responsibility of the Capacity-Building and Field Operations Branch of the Operations, Programmes and Research Division. The strategy will include:

(a) Strengthening United Nations efforts for peace, security and development by enhancing the capacity of United Nations country teams and of United Nations peacekeeping and peacebuilding missions to assist countries, **at their request,** in the development of national human rights protection systems **guided** ~~based~~, inter alia, **on by** the recommendations of human rights treaty-~~monitoring~~ bodies and the **human rights monitoring** ~~special~~ **mechanisms** ~~procedures~~ of the Human Rights Council. This will be achieved through joint activities with the United Nations offices or missions, the deployment of human rights officers and the provision of expert advice from Headquarters, regional and country offices;

(b) Rapidly deploying human rights observers and fact-finding missions in crisis situations, **at the specific request of countries or** ~~in particular~~ those **as mandated** ~~identified~~ by the Human Rights Council and other United Nations policymaking bodies;

(c) Providing stakeholders at the national level ~~with the involvement of all parts of OHCHR~~, with human rights legal advice, education and training through technical cooperation programmes aimed at strengthening the administration of justice and developing effective national human rights institutions, human rights education programmes and comprehensive national plans of action. The need to address different **human rights** gaps in the implementation of human rights will

guide ~~the work of~~ OHCHR ~~in the~~ field **activities** ~~in all areas~~, including the **prompt** response to early **signs of potential human rights emergencies** ~~warnings~~;

(d) Strengthening **cooperation within the** United Nations system-~~wide cooperation~~ at the regional and subregional levels for the protection and promotion of human rights, ~~as well as~~ **including** interaction between OHCHR programmes in the field and **relevant United Nations Human Rights mechanisms** ~~treaty bodies and special procedures~~;

(e) **Following** ~~Gathering information and observing~~ human rights developments ~~at the country level so as~~ to assist the Human Rights Council and other United Nations policymaking bodies, as well as treaty-monitoring bodies, ~~and special procedures~~ in engaging in a dialogue with countries in the implementation of their respective mandates and ensuring efficient **and effective functioning of** ~~support to~~ the country-specific special procedures of the Human Rights Council.

Subprogramme 4
Support for human rights thematic fact-finding procedures

Objective of the Organization: ~~to increase the contribution of the special procedures to the implementation of human rights at the country level~~ **To ensure the effective functioning of human rights monitoring mechanisms by assisting special rapporteurs and representatives, experts and working groups mandated by policy-making bodies in order to protect potential victims and reduce the occurrence of human rights violations**

Expected accomplishments of the Secretariat	Indicators of achievement
(a) **Enhanced support to** improve **the impact of the work of** ~~contribution by~~ special procedures mandate holders **through** ~~to~~ the analysis of gaps in the implementation of international human rights standards, **and timely advice for addressing gross and systematic violations of human rights** ~~especially in the context of early warning related to situations posing serious threats to peace and/or development~~	(a) Increased number of ~~follow-up~~ plans and activities **supported by OHCHR in follow-up** to reports and recommendations made by the thematic mandate holders ~~in analytical and programmatic documents and projects, including national human rights action plans, United Nations partner reports and programmes, including the United Nations Development Assistance Framework, and OHCHR field-oriented programmes and activities~~
(b) Enhanced cooperation with stakeholders who can benefit from and/or contribute to the work of the special procedures	(b) Increased number of partners, including Governments, civil society organizations, United Nations agencies and programmes, United Nations human rights machinery, including treaty bodies, and policymaking bodies cooperating in the implementation of special procedures' findings

(c) Increased assistance to **thematic mandate-holders in their** advocacy ~~on behalf of victims of human rights violations~~ and ~~to~~ endeavours to **prevent and protect from** ~~the occurrence or continuation of~~ human rights violations **within their respective mandates**	(c) Increased number of responses, feedback and follow-up to activities by special procedures mandate holders, including individual communications
(d) Efficient communication with right holders and institutions acting on their behalf on how to **present** ~~address~~ their concerns to special procedures and on the follow-up to interventions made	(d) Increased number of activities undertaken to disseminate information on **the mandates and activities of** ~~special~~ **thematic** procedures to individuals, United Nations partners and civil society

Strategy

19.12 The subprogramme is under the responsibility of the Special Procedures Branch, of the Human Rights Procedures Division. The subprogramme will strengthen its research, analytical, communications, information and logistical support for thematic procedures with a view to enhancing the impact of their work by:

~~(a) Developing coherent methods of work and effective channels for the implementation, at the country level, of the findings and recommendations of the special procedures by:~~

(a) Further developing criteria and strengthening the methodologies for operations and reporting functions of special procedures, and facilitating the implementation of the thematic procedures' recommendations, including through various programmes for technical cooperation provided to requesting States

~~(i)~~

(b) Strengthening the capacity of mandate holders to study, report and make recommendations within their mandates**, inter alia, through provision of:**

(i) ~~(ii) Providing a~~ Qualitative analysis of specific thematic issues, including alleged human rights violations;

(ii) ~~(iii) Ensuring~~ **Through exchange of information, where appropriate, between** ~~a smooth flow of information from~~ mandate holders **and** ~~to~~ OHCHR country engagement activities ~~and vice versa~~;

~~(b)~~ **(c)** Supporting and providing thematic expertise to fact-finding missions, including through enhanced cooperation with OHCHR geographic desks;

~~(c)~~ **(d)** Disseminating knowledge of the findings and methodology of the thematic special procedures and improving coordination**, where appropriate,** among mandate holders and between them and other mechanisms of the human rights machinery;

~~(d)~~ **(e)** Reinforcing dialogue and cooperation between thematic special procedures and partners, including Member States, United Nations country teams, national human rights institutions, civil society organizations and victims themselves;

~~(e)~~ **(f)** Facilitating the special procedures' contribution to **identifying impending human rights challenges** ~~early warning mechanisms~~ and to the formulation and implementation of technical cooperation programmes.

Legislative mandates

General Assembly resolutions

48/141	High Commissioner for the promotion and protection of all human rights
55/2	United Nations Millennium Declaration
60/144	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action
60/1	2005 World Summit Outcome
60/251	Human Rights Council

Commission on Human Rights resolutions

2004/2	Strengthening of the Office of the United Nations High Commissioner for Human Rights
2005/42	Integrating the human rights of women throughout the United Nations system (subprogrammes 1 and 2)
2005/54	Enhancement of international cooperation in the field of human rights (subprogrammes 1 and 3)
2005/58	Development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights

Subprogramme 1
Human rights mainstreaming, right to development, research and analysis

General Assembly resolutions

41/128	Declaration on the Right to Development
46/122	United Nations Voluntary Trust Fund on Contemporary Forms of Slavery
58/179	Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria
59/113 A and B	World Programme for Human Rights Education
59/166	Trafficking in women and girls

59/174	Second International Decade of the World's Indigenous People
59/186	Human rights and extreme poverty
59/189	Missing persons
59/190	Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity
59/193	Promotion of a democratic and equitable international order
59/195	Human rights and terrorism
60/131	Implementation of the World Programme of Action concerning Disabled Persons: realizing the Millennium Development Goals for persons with disabilities
60/141	The girl child
60/142	Programme of Action for the Second International Decade of the World's Indigenous People
60/144	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action
60/145	Universal realization of the right of peoples to self-determination
60/147	Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
60/150	Combating defamation of religions
60/152	Globalization and its impact on the full enjoyment of all human rights
60/155	Human rights and unilateral coercive measures
60/156	Enhancement of international cooperation in the field of human rights
60/157	The right to development
60/158	Protection of human rights and fundamental freedoms while countering terrorism
60/159	Human rights in the administration of justice
60/160	Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
60/163	Promotion of peace as a vital requirement for the full enjoyment of all human rights by all

60/165	Right to food
60/167	Human rights and cultural diversity
60/215	Towards global partnerships
60/232	Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

Economic and Social Council resolutions and decisions

1998/279	Question of human rights and states of emergency
2003/246	World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action
2003/264	The Social Forum
2004/253	Human rights and extreme poverty
2004/256	Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights
2004/257	The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms
2004/268	Follow-up to the United Nations Decade for Human Rights Education
2004/275	Globalization and its impact on the full enjoyment of human rights
2004/276	Traditional practices affecting the health of women and the girl child
2005/9	Further promotion of equalization of opportunities by, for and with persons with disabilities and protection of their human rights
2005/10	Comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities
2005/30	Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
2005/31	Mainstreaming a gender perspective into all policies and programmes in the United Nations system
2005/256	The right to development

2005/268	Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights
2005/269	Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994
2005/270	Human rights and indigenous issues
2005/271	Human rights and international solidarity
2005/273	Human rights and transnational corporations and other business enterprises
2005/278	Rights of persons belonging to national or ethnic, religious and linguistic minorities
2005/279	Protection of human rights and fundamental freedoms while countering terrorism

Commission on Human Rights resolutions

1999/46	Contemporary forms of slavery
2003/107	The Social Forum
2004/21	Adequate housing as a component of the right to an adequate standard of living
2004/34	The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms
2004/35	Conscientious objection to military service
2004/43	Human rights in the administration of justice, in particular juvenile justice
2004/44	Human rights and terrorism
2004/45	Trafficking in women and girls
2004/50	Missing persons
2004/54	Tolerance and pluralism as indivisible elements in the promotion and protection of human rights
2004/71	Follow-up to the United Nations Decade for Human Rights Education
2004/118	Fundamental standards of humanity
2005/3	Combating defamation of religions
2005/4	The right to development
2005/14	Human rights and unilateral coercive measures
2005/16	Human rights and extreme poverty

2005/17	Globalization and its impact on the full enjoyment of all human rights
2005/18	The right to food
2005/20	Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities
2005/22	Question of the realization in all countries of economic, social and cultural rights
2005/23	Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria
2005/24	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health
2005/25	Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing
2005/26	Human rights and forensic science
2005/29	Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy
2005/30	Integrity of the judicial system
2005/31	Hostage-taking
2005/32	Democracy and the rule of law
2005/35	Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
2005/36	The incompatibility between democracy and racism
2005/37	Promoting the rights to peaceful assembly and association
2005/42	Integrating the human rights of women throughout the United Nations system
2005/45	Human rights and arbitrary deprivation of nationality
2005/49	Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights
2005/50	Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994
2005/51	Human rights and indigenous issues
2005/52	Protection of indigenous peoples in times of conflict
2005/54	Enhancement of international cooperation in the field of human rights

2005/55	Human rights and international solidarity
2005/56	Promotion of peace as a vital requirement for the full enjoyment of all human rights by all
2005/57	Promotion of a democratic and equitable international order
2005/59	The question of the death penalty
2005/60	Human rights and the environment as part of sustainable development
2005/61	World Programme for Human Rights Education
2005/64	World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action
2005/65	Human rights of persons with disabilities
2005/66	Right to the truth
2005/68	The role of good governance in the promotion of human rights
2005/69	Human rights and transnational corporations and other business enterprises
2005/70	Human rights and transitional justice
2005/79	Rights of persons belonging to national or ethnic, religious and linguistic minorities
2005/80	Protection of human rights and fundamental freedoms while countering terrorism
2005/81	Impunity
2005/84	The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)

Subprogramme 2
Supporting human rights bodies and organs

General Assembly resolutions

2106 A (XX)	International Convention on the Elimination of All Forms of Racial Discrimination
2200 (XXI)	International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights
39/46	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
44/25	Convention on the Rights of the Child

59/176	International Convention on the Elimination of All Forms of Racial Discrimination
59/262	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
60/141	The girl child
60/148	Torture and other cruel, inhuman or degrading treatment or punishment
60/149	International Covenants on Human Rights
60/231	Rights of the child

Economic and Social Council resolutions and decisions

1503 (XLVIII)	Procedure for dealing with communications relating to violations of human rights and fundamental freedoms

Commission on Human Rights resolutions

2005/9	Cooperation with representatives of United Nations human rights bodies

Subprogramme 3
Advisory service, technical cooperation and field activities

General Assembly resolutions

58/269	Strengthening of the United Nations: an agenda for further change
58/315	Comprehensive review of the whole question of peacekeeping operations in all their aspects
60/87	Regional confidence-building measures: activities of the United Nations Standing Advisory Committee on Security Questions in Central Africa
60/171	Situation of human rights in the Islamic Republic of Iran
60/172	Situation of human rights in Turkmenistan
60/174	Situation of human rights in Uzbekistan
60/180	The Peacebuilding Commission
60/233	Situation of human rights in Myanmar

Economic and Social Council resolutions and decisions

2005/257	Situation of human rights in Myanmar
2005/258	Situation of human rights in the Democratic People's Republic of Korea
2005/259	Situation of human rights in Belarus

2005/275	Advisory services and technical assistance for Burundi
2005/276	Assistance to Sierra Leone in the field of human rights
2005/277	Technical cooperation and advisory services in Nepal
2005/280	Situation of human rights in the Sudan
2005/281	Assistance to Somalia in the field of human rights
2005/282	Technical cooperation and advisory services in the Democratic Republic of the Congo
2005/293	Technical cooperation in the field of human rights in Afghanistan
2005/294	Situation of human rights in Haiti

Commission on Human Rights resolutions

2003/8	Human rights situation of the Lebanese detainees in Israel
2005/6	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem and the occupied Syrian Golan
2005/7	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem
2005/8	Human rights in the occupied Syrian Golan
2005/10	Situation of human rights in Myanmar
2005/11	Situation of human rights in the Democratic People's Republic of Korea
2005/12	Situation of human rights in Cuba
2005/13	Situation of human rights in Belarus
2005/43	Abduction of children in Africa
2005/71	Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region
2005/73	Regional arrangements for the promotion and protection of human rights
2005/74	National institutions for the promotion and protection of human rights
2005/75	Advisory services and technical assistance for Burundi
2005/76	Assistance to Sierra Leone in the field of human rights
2005/77	Technical cooperation and advisory services in Cambodia
2005/78	Technical cooperation and advisory services in Nepal
2005/82	Situation of human rights in the Sudan

2005/83	Assistance to Somalia in the field of human rights
2005/85	Technical cooperation and advisory services in the Democratic Republic of the Congo

Commission on Human Rights decisions

2005/103	Question of human rights in Cyprus
2005/117	Situation of human rights in Liberia

Commission on Human Rights: Chairperson's statements that the Commission agreed on by consensus

2005	Question of Western Sahara (7 April 2005)
2005	Technical cooperation in the field of human rights in Afghanistan (21 April 2005)
2005	Situation of human rights in Haiti (21 April 2005)
2005	Situation of human rights in Colombia (22 April 2005)

Subprogramme 4
Support for human rights thematic fact-finding procedures

General Assembly resolutions

59/197	Extrajudicial, summary or arbitrary executions
58/245	Office of the Special Representative of the Secretary-General for Children and Armed Conflict
59/178	Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination
60/161	Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms
60/166	Elimination of all forms of intolerance and of discrimination based on religion or belief
60/168	Protection of and assistance to internally displaced persons

Economic and Social Council resolutions and decisions

2004/285	Extension of the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography

Commission on Human Rights resolutions

2003/21	Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights

2003/23	Globalization and its impact on the full enjoyment of human rights
2003/25	The right to food
2003/27	Adequate housing as a component of the right to an adequate standard of living
2003/30	World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action
2003/31	Question of arbitrary detention
2003/43	Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers
2003/45	Elimination of violence against women
2003/64	Human rights defenders
2004/17	Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights
2004/25	The right to education
2004/36	Elimination of all forms of religious intolerance
2004/37	Extrajudicial, summary or arbitrary executions
2004/40	Enforced or involuntary disappearances
2004/41	Torture and other cruel, inhuman or degrading treatment or punishment
2004/55	Internally displaced persons
2004/62	Human rights and indigenous issues
2005/2	The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination
2005/24	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health
2005/38	The right to freedom of opinion and expression
2005/47	The human rights of migrants
2005/55	Human rights and international solidarity
2005/64	World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action
2005/69	Human rights and transnational corporations and other business enterprises

2005/79	Rights of persons belonging to national or ethnic, religious and linguistic minorities
2005/80	Protection of human rights and fundamental freedoms while countering terrorism

Commission on Human Rights decisions

2004/110	Special Rapporteur on trafficking in persons, especially in women and children

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Report of the Human Rights Council

Report of the Third Committee

Rapporteur: Ms. Elena **Molaroni** (San Marino)

I. Introduction

1. At its 2nd plenary meeting, on 13 September 2006, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-first session the item entitled "Report of the Human Rights Council". At its 41st plenary meeting, on 26 October, the General Assembly decided the item would be considered in plenary meeting and in the Third Committee, on the understanding that the Third Committee would consider and act on all recommendations of the Human Rights Council to the General Assembly, including those that deal with the development of international law in the field of human rights.

2. The Third Committee considered the item at its 35th to 37th, 44th, 45th, 53rd and 54th meetings, on 1, 2, 10, 13, 28 and 30 November 2006. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/61/SR.35-37,44,45,53 and 54).

3. For its consideration of the item, the Committee had before it the report of the Human Rights Council.[1]

4. At the 44th meeting, on 10 November, the President of the Human Rights Council addressed the Committee (see A/C.3/61/SR.44).

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53* (A/61/53).

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II. Consideration of proposals

A. Draft resolution A/C.3/61/L.17

5. At the 37th meeting, on 2 November, the representative of France, on behalf of Afghanistan, Andorra, Angola, Argentina, Armenia, Austria, Azerbaijan, Bangladesh, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Cape Verde, Chile, the Congo, Costa Rica, Croatia, Cuba, Cyprus, the Czech Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Jordan, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Monaco, Morocco, the Netherlands, Nigeria, Norway, Panama, Paraguay, Peru, Poland, Portugal, the Republic of Korea, Romania, Senegal, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Uganda, Ukraine, the United Republic of Tanzania, Uruguay and Venezuela (Bolivarian Republic of), introduced a draft resolution entitled "International Convention for the Protection of All Persons from Enforced Disappearance" (A/C.3/61/L.17). Subsequently, Albania, Botswana, Cambodia, Canada, the Central African Republic, the Comoros, Côte d'Ivoire, the Democratic Republic of the Congo, Denmark, Dominica, the Dominican Republic, Eritrea, Fiji, Indonesia, Kenya, Lebanon, Lesotho, Mauritania, Moldova, Montenegro, Nicaragua, Serbia, Sierra Leone, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia and Ukraine joined in sponsoring the draft resolution.

6. At the 45th meeting, on 13 November, the Secretary read out a statement of programme budget implications relating to the draft resolution (see A/C.3/61/SR.45).

7. At the same meeting, the representative of France orally revised operative paragraph 1 of the draft resolution by replacing the word "*Hails*" by the word "*Acknowledges*".

8. Also at the 45th meeting, the Committee adopted draft resolution A/C.3/61/L.17, as orally revised, without a vote (see para. 28, draft resolution I).

9. After the adoption of the draft resolution, statements were made by the representatives of Canada, the United States of America, India, the United Kingdom of Great Britain and Northern Ireland, the Philippines, New Zealand, Denmark, Venezuela (Bolivarian Republic of), Japan and France (see A/C.3/61/SR.45).

B. Draft resolution A/C.3/61/L.18 and Rev.1 and amendments thereto contained in document A/C.3/61/L.57/Rev.1

10. At the 37th meeting, on 2 November, the representative of Peru, on behalf of Armenia, Bolivia, Cameroon, the Congo, Costa Rica, Croatia, Cuba, the Democratic Republic of the Congo, Denmark, the Dominican Republic, Ecuador, Estonia, Fiji, France, Germany, Greece, Guatemala, Haiti, Hungary, Latvia, Liechtenstein, Lithuania, Mexico, Panama, Paraguay, Peru, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland and the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994" (A/C.3/61/L.18). Subsequently, Bosnia and

Herzegovina, Cyprus and Finland joined in sponsoring the draft resolution, which read:

"*The General Assembly*,

"*Taking note* of Human Rights Council resolution 1/2 of 29 June 2006, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

"1. *Expresses its appreciation* to the Council for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples;

"2. *Adopts* the Declaration as contained in the annex to the present resolution."

[For the text of the Declaration, see para. 28, draft resolution II, annex]

11. At its 53rd meeting, on 28 November, the Committee had before it a revised draft resolution (A/C.3/61/L.18/Rev.1), submitted by Armenia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Cameroon, the Congo, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Dominica, the Dominican Republic, Ecuador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, Latvia, Liechtenstein, Lithuania, Mexico, Moldova, Montenegro, Panama, Paraguay, Peru, Portugal, Serbia, Slovenia, Spain, Switzerland and the former Yugoslav Republic of Macedonia. Subsequently, Albania, Andorra and Malta joined in sponsoring the revised draft resolution.

12. At the same meeting, the Committee was advised that the draft resolution had no programme budget implications.

13. At the same meeting, the representative of Peru made a statement.

14. At the same meeting, the representative of Namibia introduced amendments to the draft resolution, contained in A/C.3/61/L.57/Rev.1.

15. A statement was made by the representative of Peru.

16. Statements were made by the representatives of Namibia (on behalf of the States Members of the United Nations that are members of the Group of African States), Egypt, Mexico and Guatemala (see A/C.3/61/SR.53).

17. The Committee adopted the amendments contained in document A/C.3/61/L.57/Rev.1 by a recorded vote of 82 to 67 with 25 abstentions. The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Australia, Bahamas, Bahrain, Belarus, Benin, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Colombia, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Indonesia, Iraq, Jamaica, Kazakhstan, Kenya, Kiribati, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Micronesia (Federated States of), Morocco, Mozambique, Myanmar, Namibia, New Zealand, Niger, Nigeria, Oman, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Senegal, Sierra Leone, Singapore, South Africa, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Tunisia,

Turkey, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uzbekistan, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Chile, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Moldova, Monaco, Montenegro, Nauru, Netherlands, Nicaragua, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Antigua and Barbuda, Azerbaijan, Bangladesh, Barbados, Bhutan, China, Georgia, India, Israel, Japan, Jordan, Malaysia, Mongolia, Nepal, Pakistan, Philippines, Republic of Korea, Saudi Arabia, Sri Lanka, Tonga, Trinidad and Tobago, Ukraine, United States of America, Vanuatu, Venezuela (Bolivarian Republic of).

18. Before the vote, statements were made by the representatives of Bolivia, Finland (on behalf of the States Members of the United Nations that are members of the European Union and associated countries), Fiji, New Zealand, Chile, Turkey, Australia, Canada, the Russian Federation, Colombia and Norway; after the vote, statements were made by the representatives of Indonesia, Jamaica, Ukraine, Canada, Guyana, Benin, Botswana, Myanmar, Kuwait, Kenya, Cameroon, the Congo, Rwanda and Colombia (see A/C.3/61/SR.53).

19. At the same meeting, the Secretary corrected operative paragraph 3 by inserting the words "as contained in the annex to the present resolution" after the word "Declaration".

20. The representative of Peru made a statement and withdrew as a sponsor of the draft resolution, as amended, and orally corrected.

21. Albania, Andorra, Armenia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Cameroon, the Congo, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Dominica, the Dominican Republic, Ecuador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Moldova, Panama, Paraguay, Portugal, Serbia, Slovenia, Spain, Switzerland and the former Yugoslav Republic of Macedonia also withdrew as sponsors of the draft resolution, as amended and orally corrected.

22. Algeria, Angola, Botswana, Burkina Faso, Burundi, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Gabon, the Gambia, Guinea, Guinea-Bissau, Lesotho, the Libyan Arab Jamahiriya, Madagascar, Malawi, Mauritania, Morocco, Mozambique, Namibia, Nigeria, the Sudan, Swaziland, Togo, Tunisia, the United Republic of Tanzania and Zimbabwe joined in sponsoring the draft resolution, as amended and orally corrected.

23. Also at its 53rd meeting, the Committee adopted draft resolution A/C.3/61/L.18/Rev.1, as amended and orally corrected, by a recorded vote of 83 to none, with 91 abstentions (see para. 28, draft resolution II). The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Australia, Bahamas, Bahrain, Barbados, Belarus, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Colombia, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Indonesia, Iraq, Jamaica, Kazakhstan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Myanmar, Namibia, New Zealand, Niger, Nigeria, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Sierra Leone, Singapore, South Africa, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

None.

Abstaining:

Albania, Andorra, Argentina, Armenia, Austria, Azerbaijan, Bangladesh, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Chile, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Jordan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mexico, Moldova, Monaco, Montenegro, Nauru, Nepal, Netherlands, Nicaragua, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Slovakia, Slovenia, Solomon Islands, Spain, Sri Lanka, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

24. Before the vote, statements were made by the representatives of Peru, Chile, Ecuador, Guatemala, Bolivia, Uruguay, Namibia and Nicaragua; after the vote statements were made by the representatives of the Philippines, Finland (on behalf of the States Members of the United Nations that are members of the European Union and associated countries), Japan, Mexico, Iraq, Venezuela (Bolivarian Republic of), Cuba and Brazil (see A/C.3/61/SR.53).

C. Draft decision A/C.3/61/L.58

25. At its 54th meeting, on 30 November, the Committee had before it a draft decision entitled "Report of the Human Rights Council" (A/C.3/61/L.58), submitted

by Namibia, on behalf of the States Members of the United Nations that are members of the Group of African States, which read:

> "The General Assembly, reaffirming its resolution 60/251 of 15 March 2006, by which it established the Human Rights Council as a subsidiary body of the General Assembly, welcomes the establishment of the Council, and decides to take note of the report of the Council to the General Assembly at its sixty-first session."

26. At the same meeting, the representative of Namibia made a statement on behalf of the States Members of the United Nations that are members of the group of African States, and withdrew the draft decision.

D. Draft decision proposed by the Chairman

27. At its 54th meeting, on 30 November, on the proposal of the Chairman, the Committee decided to recommend to the General Assembly that it take note of the report of the Human Rights Council[1] (see para. 29).

III. Recommendations of the Third Committee

28. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
International Convention for the Protection of All Persons from Enforced Disappearance

The General Assembly,

Taking note of Human Rights Council resolution 1/1 of 29 June 2006, by which the Council adopted the International Convention for the Protection of All Persons from Enforced Disappearance,[1]

1. *Acknowledges* the Council's adoption of the International Convention for the Protection of All Persons from Enforced Disappearance;[1]

2. *Adopts* and opens for signature, ratification and accession to the International Convention for the Protection of All Persons from Enforced Disappearance, the text of which is annexed to the present resolution;

3. *Recommends* that the Convention be opened for signature at a signing ceremony in Paris.

Annex

International Convention for the Protection of All Persons from Enforced Disappearance

Preamble

The States Parties to this Convention,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to the Universal Declaration of Human Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the other relevant international instruments in the fields of human rights, humanitarian law and international criminal law,

Also recalling the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992,

Aware of the extreme seriousness of enforced disappearance, which constitutes a crime and, in certain circumstances defined in international law, a crime against humanity,

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[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53* (A/61/53), part one, chap. II, sect. A, resolution 1/1, annex.

Determined to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance,

Considering the right of any person not to be subjected to enforced disappearance, the right of victims to justice and to reparation,

Affirming the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end,

Have agreed on the following articles:

Part I

Article 1

1. No one shall be subjected to enforced disappearance.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

Article 2

For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.

Article 3

Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.

Article 4

Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law.

Article 5

The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

Article 6

1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(*a*) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(*b*) A superior who:

(i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

(*c*) Subparagraph (*b*) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

Article 7

1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.

2. Each State Party may establish:

(*a*) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;

(*b*) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons.

Article 8

Without prejudice to article 5,

1. A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings:

(*a*) Is of long duration and is proportionate to the extreme seriousness of this offence;

(*b*) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

2. Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation.

Article 9

1. Each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance:

(*a*) When the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(*b*) When the alleged offender is one of its nationals;

(*c*) When the disappeared person is one of its nationals and the State Party considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.

3. This Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law.

Article 10

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 of this article may communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides.

Article 11

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.

3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law.

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.

3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:

(*a*) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;

(*b*) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.

4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.

Article 13

1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives.

Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.

3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

7. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons.

Article 14

1. States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.

2. Such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant mutual legal assistance or may make it subject to conditions.

Article 15

States Parties shall cooperate with each other and shall afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

Article 16

1. No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

Article 17

1. No one shall be held in secret detention.

2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:

(*a*) Establish the conditions under which orders of deprivation of liberty may be given;

(*b*) Indicate those authorities authorized to order the deprivation of liberty;

(*c*) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;

(*d*) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;

(*e*) Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;

(*f*) Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.

3. Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:

(*a*) The identity of the person deprived of liberty;

(*b*) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;

(*c*) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;

(*d*) The authority responsible for supervising the deprivation of liberty;

(*e*) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(*f*) Elements relating to the state of health of the person deprived of liberty;

(*g*) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;

(*h*) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

Article 18

1. Subject to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:

(*a*) The authority that ordered the deprivation of liberty;

(*b*) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;

(*c*) The authority responsible for supervising the deprivation of liberty;

(*d*) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;

(*e*) The date, time and place of release;

(*f*) Elements relating to the state of health of the person deprived of liberty;

(*g*) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.

2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

Article 19

1. Personal information, including medical and genetic data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.

2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.

Article 20

1. Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information referred to in article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention. In no case shall there be restrictions on the right to information referred to in article 18 that could constitute conduct defined in article 2 or be in violation of article 17, paragraph 1.

2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective judicial remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances.

Article 21

Each State Party shall take the necessary measures to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law.

Article 22

Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

(*a*) Delaying or obstructing the remedies referred to in article 17, paragraph 2 (*f*), and article 20, paragraph 2;

(*b*) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate;

(*c*) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met.

Article 23

1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty

includes the necessary education and information regarding the relevant provisions of this Convention, in order to:

(*a*) Prevent the involvement of such officials in enforced disappearances;

(*b*) Emphasize the importance of prevention and investigations in relation to enforced disappearances;

(*c*) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.

2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.

3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph 1 of this article who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or bodies vested with powers of review or remedy.

Article 24

1. For the purposes of this Convention, "victim" means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.

2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.

3. Each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.

4. Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation.

5. The right to obtain reparation referred to in paragraph 4 of this article covers material and moral damages and, where appropriate, other forms of reparation such as:

(*a*) Restitution;

(*b*) Rehabilitation;

(*c*) Satisfaction, including restoration of dignity and reputation;

(*d*) Guarantees of non-repetition.

6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

Article 25

1. Each State Party shall take the necessary measures to prevent and punish under its criminal law:

(*a*) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;

(*b*) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (*a*) above.

2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (*a*) of this article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.

3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 (*a*) of this article.

4. Given the need to protect the best interests of the children referred to in paragraph 1 (*a*) of this article and their right to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognized by law, States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance.

5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

Part II

Article 26

1. A Committee on Enforced Disappearances (hereinafter referred to as "the Committee") shall be established to carry out the functions provided for under this Convention. The Committee shall consist of ten experts of high moral character and recognized competence in the field of human rights, who shall serve in their personal capacity and be independent and impartial. The members of the Committee shall be elected by the States Parties according to equitable geographical distribution. Due account shall be taken of the usefulness of the participation in the work of the Committee of persons having relevant legal experience and of balanced gender representation.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties from among their nationals, at biennial meetings of the States Parties convened by the Secretary-General of the United Nations for this purpose. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

3. The initial election shall be held no later than six months after the date of entry into force of this Convention. Four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which nominated each candidate, and shall submit this list to all States Parties.

4. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 2 of this article.

5. If a member of the Committee dies or resigns or for any other reason can no longer perform his or her Committee duties, the State Party which nominated him or her shall, in accordance with the criteria set out in paragraph 1 of this article, appoint another candidate from among its nationals to serve out his or her term, subject to the approval of the majority of the States Parties. Such approval shall be considered to have been obtained unless half or more of the States Parties respond negatively within six weeks of having been informed by the Secretary-General of the United Nations of the proposed appointment.

6. The Committee shall establish its own rules of procedure.

7. The Secretary-General of the United Nations shall provide the Committee with the necessary means, staff and facilities for the effective performance of its functions. The Secretary-General of the United Nations shall convene the initial meeting of the Committee.

8. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations, as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

9. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate, to the extent of the Committee's functions that the State Party has accepted.

Article 27

A Conference of the States Parties will take place at the earliest four years and at the latest six years following the entry into force of this Convention to evaluate the functioning of the Committee and to decide, in accordance with the procedure described in article 44, paragraph 2, whether it is appropriate to transfer to another

body — without excluding any possibility — the monitoring of this Convention, in accordance with the functions defined in articles 28 to 36.

Article 28

1. In the framework of the competencies granted by this Convention, the Committee shall cooperate with all relevant organs, offices and specialized agencies and funds of the United Nations, with the treaty bodies instituted by international instruments, with the special procedures of the United Nations and with the relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances.

2. As it discharges its mandate, the Committee shall consult other treaty bodies instituted by relevant international human rights instruments, in particular the Human Rights Committee instituted by the International Covenant on Civil and Political Rights, with a view to ensuring the consistency of their respective observations and recommendations.

Article 29

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under this Convention, within two years after the entry into force of this Convention for the State Party concerned.

2. The Secretary-General of the United Nations shall make this report available to all States Parties.

3. Each report shall be considered by the Committee, which shall issue such comments, observations or recommendations as it may deem appropriate. The comments, observations or recommendations shall be communicated to the State Party concerned, which may respond to them, on its own initiative or at the request of the Committee.

4. The Committee may also request States Parties to provide additional information on the implementation of this Convention.

Article 30

1. A request that a disappeared person should be sought and found may be submitted to the Committee, as a matter of urgency, by relatives of the disappeared person or their legal representatives, their counsel or any person authorized by them, as well as by any other person having a legitimate interest.

2. If the Committee considers that a request for urgent action submitted in pursuance of paragraph 1 of this article:

(*a*) Is not manifestly unfounded;

(*b*) Does not constitute an abuse of the right of submission of such requests;

(*c*) Has already been duly presented to the competent bodies of the State Party concerned, such as those authorized to undertake investigations, where such a possibility exists;

(*d*) Is not incompatible with the provisions of this Convention; and

(*e*) The same matter is not being examined under another procedure of international investigation or settlement of the same nature;

it shall request the State Party concerned to provide it with information on the situation of the persons sought, within a time limit set by the Committee.

3. In the light of the information provided by the State Party concerned in accordance with paragraph 2 of this article, the Committee may transmit recommendations to the State Party, including a request that the State Party should take all the necessary measures, including interim measures, to locate and protect the person concerned in accordance with this Convention and to inform the Committee, within a specified period of time, of measures taken, taking into account the urgency of the situation. The Committee shall inform the person submitting the urgent action request of its recommendations and of the information provided to it by the State as it becomes available.

4. The Committee shall continue its efforts to work with the State Party concerned for as long as the fate of the person sought remains unresolved. The person presenting the request shall be kept informed.

Article 31

1. A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.

2. The Committee shall consider a communication inadmissible where:

(*a*) The communication is anonymous;

(*b*) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of this Convention;

(*c*) The same matter is being examined under another procedure of international investigation or settlement of the same nature; or where

(*d*) All effective available domestic remedies have not been exhausted. This rule shall not apply where the application of the remedies is unreasonably prolonged.

3. If the Committee considers that the communication meets the requirements set out in paragraph 2 of this article, it shall transmit the communication to the State Party concerned, requesting it to provide observations and comments within a time limit set by the Committee.

4. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party will take such interim measures as may be necessary to avoid possible irreparable damage to the victims of the alleged violation. Where the Committee exercises its

discretion, this does not imply a determination on admissibility or on the merits of the communication.

5. The Committee shall hold closed meetings when examining communications under the present article. It shall inform the author of a communication of the responses provided by the State Party concerned. When the Committee decides to finalize the procedure, it shall communicate its views to the State Party and to the author of the communication.

Article 32

A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention. The Committee shall not receive communications concerning a State Party which has not made such a declaration, nor communications from a State Party which has not made such a declaration.

Article 33

1. If the Committee receives liable information indicating that a State Party is seriously violating the provisions of this Convention, it may, after consultation with the State Party concerned, request one or more of its members to undertake a visit and report back to it without delay.

2. The Committee shall notify the State Party concerned, in writing, of its intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The State Party shall answer the Committee within a reasonable time.

3. Upon a substantiated request by the State Party, the Committee may decide to postpone or cancel its visit.

4. If the State Party agrees to the visit, the Committee and the State Party concerned shall work together to define the modalities of the visit and the State Party shall provide the Committee with all the facilities needed for the successful completion of the visit.

5. Following its visit, the Committee shall communicate to the State Party concerned its observations and recommendations.

Article 34

If the Committee receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State Party, it may, after seeking from the State Party concerned all relevant information on the situation, urgently bring the matter to the attention of the General Assembly of the United Nations, through the Secretary-General of the United Nations.

Article 35

1. The Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of this Convention.

2. If a State becomes a party to this Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned.

Article 36

1. The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

2. Before an observation on a State Party is published in the annual report, the State Party concerned shall be informed in advance and shall be given reasonable time to answer. This State Party may request the publication of its comments or observations in the report.

Part III

Article 37

Nothing in this Convention shall affect any provisions which are more conducive to the protection of all persons from enforced disappearance and which may be contained in:

(*a*) The law of a State Party;

(*b*) International law in force for that State.

Article 38

1. This Convention is open for signature by all Member States of the United Nations.

2. This Convention is subject to ratification by all Member States of the United Nations. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is open to accession by all Member States of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

Article 39

1. This Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the twentieth instrument of ratification or accession, this Convention shall enter into force on the thirtieth day after the date of the deposit of that State's instrument of ratification or accession.

Article 40

The Secretary-General of the United Nations shall notify all States Members of the United Nations and all States which have signed or acceded to this Convention of the following:

(*a*) Signatures, ratifications and accessions under article 38;

(*b*) The date of entry into force of this Convention under article 39.

Article 41

The provisions of this Convention shall apply to all parts of federal States without any limitations or exceptions.

Article 42

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation or by the procedures expressly provided for in this Convention shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. A State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a declaration.

3. Any State Party having made a declaration in accordance with the provisions of paragraph 2 of this article may at any time withdraw this declaration by notification to the Secretary-General of the United Nations.

Article 43

This Convention is without prejudice to the provisions of international humanitarian law, including the obligations of the High Contracting Parties to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, or to the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 44

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all the States Parties for acceptance.

3. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have accepted it in accordance with their respective constitutional processes.

4. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendment which they have accepted.

Article 45

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article 38.

Draft resolution II
Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, in particular the principles of self-determination of peoples, respect for the territorial integrity of States and good faith regarding the fulfilment of the obligations assumed by States in accordance with the Charter,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,[1] by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recognizing that the situation of indigenous peoples varies from country to country and from region to region,

1. *Expresses its appreciation* to the Working Group of the Commission on Human Rights for the work done in the elaboration of a draft declaration on the rights of indigenous peoples,

2. *Decides* to defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations thereon;

3. *Also decides* to conclude its consideration of the Declaration, as contained in the annex to the present resolution, before the end of its sixty-first session.

Annex

United Nations Declaration on the Rights of Indigenous Peoples

The Human Rights Council,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

[1] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53* (A/61/53), chap. II, sect. A.

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Recognizing that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect,

Considering that the rights affirmed in treaties, agreements and constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of forced assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their

own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned o. otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, of a just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a significant threat to relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions,

procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as to diminish or eliminate the rights of Indigenous Peoples contained in treaties, agreements and constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to have access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

29. The Third Committee also recommends to the General Assembly the adoption of the following draft decision:

Report of the Human Rights Council

The General Assembly takes note of the report of the Human Rights Council.[1]

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53* (A/61/53).